

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

MARIA DE LOURDES PEREZ-BASURTO,
et al.,

Plaintiff,

vs.

HILLARY RODHAM CLINTON, Secretary
of State, et al.,

Defendant.

CASE NO. 11CV1775 JLS (BGS)

**ORDER GRANTING
DEFENDANTS' MOTION TO
DISMISS**

(ECF No. 4)

Presently before the Court is Defendants' motion to dismiss. (Mot. to Dismiss, ECF No. 4) Also before the Court is Maria de Lourdes Perez-Basurto and Juan Manuel Pasalagua y Branch's ("Pasalagua," and collectively, "Plaintiffs") response, indicating that "Plaintiffs do not object to the Defendants' Motion to Dismiss." (Response 1, ECF No. 6)

Plaintiffs filed this action on August 10, 2011, requesting "[t]hat the Court . . . order the Defendants to provide Plaintiffs the evidence and basis for their determination of [immigrant visa] ineligibility." (Compl. ¶ 11, ECF No. 1) Plaintiffs allege that Pasalagua was denied an immigrant visa "because of some prior incident of immigration fraud or misrepresentation," (*id.* ¶ 5), but that Pasalagua "has no access to government records with which to contest the allegation that he is ineligible for an immigrant visa (or to confirm that he does have a ground of ineligibility)," (*id.* ¶ 9).


1 Defendants move to dismiss on several bases, including that “Plaintiffs have not initiated –
2 let alone exhausted – the administrative procedure specifically intended to grant them the relief
3 they seek in this litigation: a Freedom of Information Act request for Pasalagua’s immigration
4 records.” (Mot. to Dismiss 1–2, ECF No. 4)

5 Plaintiffs apparently consent to dismissal because they have obtained the information they
6 hoped to obtain by filing the instant complaint: “[T]he lawsuit was an attempt to see if [defense]
7 counsel could help resolve the problem of the lack of documentation concerning an allegation of
8 fraud in certain immigration matters. . . . Defendants’ counsel was apparently unable to determine
9 if any assistance was available.” (Response 1–2, ECF No. 6) And since filing the complaint,
10 Plaintiffs have sought “assistance from the administrative agencies concerned through the
11 Freedom of Information Act (FOIA), 5 U.S.C. 552(a)(2).” (*Id.* at 2)

12 Accordingly, Defendants’ motion to dismiss is **GRANTED**, and Plaintiffs’ complaint is
13 **DISMISSED WITHOUT PREJUDICE.**

14 **IT IS SO ORDERED.**

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16 DATED: January 19, 2012

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18 Honorable Janis L. Sammartino
19 United States District Judge
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